FARAD CONTINUTION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

A.O. No. 204 of 2006
with
C.A.No 284 of 2006

Office Notes,Office Memorandum of Coram appearence,Court's Orders & Directors and Registrar's Order	Court or Judge's Order

Mr R K Desai for appellant
Ms Joglekar for BMC

CORAM; A.M.KHANWILKAR J.

DATED 5.5.2006

P.C.

l. Heard parties.

2. Admit. Counsel for respondent waives notice. As short question is invovled, heard forthwith by consent.

3. This appeal takes exception to the order passed by the trial court on 20.l.2006 in L.C.Suit No. l09 of 2006 refusing to grant ad-interim relief during the pendency of the notice of

motion in respect of the suit structure. The sole basis on which the court has disallowed the prayer for ad-interim relief is that the appellant has failed to produce original documents inspite of sufficient opportunity was granted by the court.

4. In so far as the approach of the trial court is concerned no fault can be found with it. The fact remains that the appellant has produced sanctioned plan which according to the appellant pertains to the suit structure. The court below has referred to the zerox copy of the plan upto 2nd floor. However, the plan which is now produced before this court pertains purportedly to third floor which is referable to suit structure. All these aspects will have to be considered by the lower court in the notice of motion.The appropriate course to my mind is to grant ad-interim relief to the appellant which will enure till the

trial court finally disposes of the notice of motion and/or passes appropriate order as may be warranted in the fact situation of the case.

5. Accordingly this appeal succeeds. The impugned order is set aside. Instead,ad-interim order which was granted on l.l.2006 is restored and to continue till further orders to be passed by the trial court in the pending notice of motion. All questions on merits are left open to be decided in the notice of motion. The said notice of motion be disposed off by the end of July 2006, as assurance is given by the learned counsel for the parties that pleadings will be completed on or before l7.6.2006 when the notice of motion has been made returnable.

. Both appeal as well as Civil Application stand disposed of.